

Case Report

1. Case Number :	0221-24
2. Advertiser :	Universal Pictures
3. Product :	Entertainment
4. Type of Advertisement/Media :	TV - On Demand
5. Date of Decision:	11-Sep-2024
6. Decision:	Dismissed
7. IR Recommendation:	Panel to Reconsider
8. Date of reviewed decision:	6-Nov-2024
9. Decision on review:	Dismissed

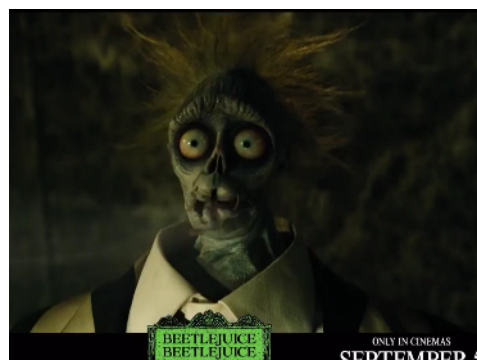
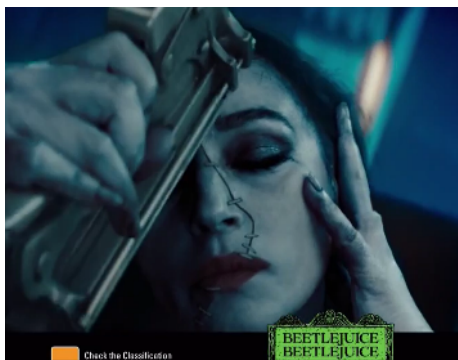
ISSUES RAISED

AANA Code of Ethics\2.3 Violence

DESCRIPTION OF ADVERTISEMENT

This on demand TV advertisement promoting Beetlejuice Beetlejuice features scenes from the movie, including:

- a hand walking along the ground
- a woman stapling her face
- a woman screaming
- an alien with something coming out of its mouth.



THE COMPLAINT

Comments which the complainant/s made regarding this advertisement included the following:

Sensitive content whilst the movie is yet to receive a rating it is likely to be between M/MA/R. The trailer has dark content such as people stapling their faces and should not be shown during Olympic highlights on 9now which is easily accessed by families (the Olympics is "family viewing")

It is being aired at a time when we are watching tv as a family such as during the evening news. It contains scenes that are inappropriate for young children

Displayed prior to streaming of rhythmic gymnastics olympic event on Channel 9, when watching at 3pm in the afternoon. Terrified my 3 year old daughter who was excited to watch the rhythmic gymnastics event, not a horror movie advertisement. No option to skip or change channel and forced to sit through ad in order to watch the desired olympic event.

THE ORIGINAL ADVERTISER'S RESPONSE

Comments which the advertiser made in response to the complainant/s regarding this advertisement include the following:

Universal Pictures International Australasia adhere to the AANA Advertiser Code of Ethics.

Section 2.3 of the Code states "Advertising or Marketing Communications shall not present or portray violence/language unless it is justifiable in the context of the product or service advertised."

Beetlejuice Beetlejuice is a darkly imaginative comedy film which contains numerous scenes which could be scary in nature and suspenseful. It would therefore be reasonable to justify that our advertising materials have been produced within the context of the product being advertised.

Universal Pictures on behalf of WARNER BROS strive to advertise films of this content in a manner that remains appropriate for all consumers.

To ensure due diligence, prior to activity going live we seek approval on our creative from key media partners and carefully plan out our targeting with the agency to deliver a digital plan designed to reach Adults 16+yrs who are fans of the genre. We work with YouTube to apply a layer of 'genre interest targeting' in addition to the demographic overlays to ensure the ads are seen by a relevant audience.

Please also note that all advertising materials for this film have displayed the (Check the Classification) logo for the required duration & updated once the film was classified.

We apologise for any distress caused and would like to reassure all parties involved that we have adhered to all required standards and the industry code of conduct in relation to the advertising materials and placements for this film.

THE ORIGINAL DECISION

The Ad Standards Community Panel (the Panel) considered whether this advertisement breaches Section 2 of the AANA Code of Ethics (the Code).

The Panel noted the complainants' concerns that the advertisement contains scenes which are too frightening for the audience.

The Panel viewed the advertisement and noted the advertiser's response.

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Does the advertisement contain violence?

The Panel noted that while the advertised movie is a comedy it does contain some scenes which are horror themed. The Panel noted the advertisement contained scenes such:

- as the woman stapling her face
- a woman being restrained by two men
- the Beetlejuice character catching fire
- an explosion
- a person throwing a punch
- someone being thrown backwards after being hit with a bolt of electricity

The Panel considered that while these scenes were humorous and slap-stick in nature, they did contain a mild a mild level of violence.

Is the violence justifiable in the context of the product advertised?

The Panel noted the Practice Note for this section of the Code which states:

"In considering whether the violence or menace depicted in an advertisement is justifiable, the Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example, advertising for violent or horror movies, tv shows or video games should take care not to include images that give the impression that a character has just committed violence against someone (for example, a weapon with dripping blood), was the victim of violence (for example, freshly severed limbs) or is about to commit violence against someone (for example,

gun aimed directly at a person or the viewer) where there is a broad audience which includes children. More leeway is permitted where the depiction is stylised rather than realistic. However, advertisers should exercise caution when using cartoon violence as a cartoon style may be attractive to children.”

The Panel noted the advertiser response that the film is a darkly imaginative comedy film which contains numerous scenes which could be scary in nature and suspenseful.

The Panel noted that the advertisement had been viewed while streaming the Olympics and considered that this programming would have a broad audience and would include children.

The Panel considered that the advertisement did not contain graphic depictions of violence or a strong suggestion of menace which would be unacceptable when visible to a broad audience which includes children. The Panel considered that the mild, slapstick style violence was justifiable in the context of promoting a comedy film with horror themes.

Section 2.3 Conclusion

The Panel concluded that the advertisement did not breach Section 2.3 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code the Panel dismissed the complaints.

REQUEST FOR REVIEW

The Panel's decision regarding this advertisement contained substantial flaws. I have outlined these below and am grateful for your independent review.

1. Mischaracterisation of Advert Contents

The Panel's description of the violence as "mild, slapstick style" appears to me a gross misrepresentation of the facts. The advertisement contained disturbing images including:

- *A woman stapling her own face*
- *A woman being restrained by two men*
- *A character catching fire*

These images go far beyond "mild" or "slapstick" and venture into territory that could be genuinely traumatising for viewers, especially children.

2. Blatant Disregard for Psychological Impact

The Panel demonstrates a lack of consideration for the potential psychological impact of these violent and disturbing images on children. The images of self-harm (face stapling), potential assault (woman being restrained), and graphic injury (character on fire) can be deeply upsetting and potentially triggering, even for adult viewers. For children, the impact could be severe and long-lasting. The Panel's dismissal of these concerns hard to fathom.

3. Inappropriate Audience Consideration

The Panel acknowledges that the advertisement was viewed during the Olympics, which has a broad audience including children. The Olympics is a family-friendly event that attracts viewers of all ages, including young children. Exposing this audience to such graphic and disturbing content is wholly inappropriate and potentially traumatising.

4. Overemphasis on Justification

The Panel places undue weight on justifying the content because it promotes a comedy film with horror themes. This justification is entirely insufficient given the graphic nature of the images. The mere fact that disturbing content is relevant to the product being advertised does not make it appropriate for all audiences, especially children.

5. Disregard for Parental Control

By allowing this advertisement during broadly viewed programming like the Olympics, the Panel's decision egregiously undermines parents' ability to control their children's exposure to violent and disturbing content. Parents reasonably expect that programming during a sporting event like the Olympics will be family-friendly. This decision betrays that trust and takes away parents' right to choose what type of content their children are exposed to.

6. Contradiction of Own Guidelines

The Panel explicitly acknowledges that "Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children." Yet, inexplicably, they fail to apply this standard to the advertisement in question. The images of face stapling, restraint, and a person on fire clearly constitute graphic depictions of violence and strongly suggest menace. The decision appears to contradict not only the Panel's own guidelines but also common sense standards for protecting children from inappropriate content.

7. Failure to Define "Strong Suggestion of Menace"

Given the disturbing nature of the images, it's difficult to understand how the Panel concluded that the advertisement did not contain a "strong suggestion of menace." This failure to recognise clear menace in such graphic imagery calls into question the Panel's judgment and the criteria they use to make these determinations.

I contend that the Panel's decision is flawed and should be reversed. It appears the panel prioritises a film's promotional needs over the well-being and protection of child viewers. It fails to adequately consider the graphic content of the advertisement, its placement during family programming, and the potential psychological impact on young audiences.

INDEPENDENT REVIEWER'S RECOMMENDATION

Complaint

The complaints made regarding this advertisement included the following:

- *Sensitive content whilst the movie is yet to receive a rating. It is likely to be between M/MA/R. The trailer has dark content such as people stapling their faces and should not be shown during Olympic highlights on 9now which is easily accessed by families (the Olympics is "family viewing").*
- *It is being aired at a time when we are watching tv as a family such as during the evening news. It contains scenes that are inappropriate for young children.*
- *Displayed prior to streaming of rhythmic gymnastics olympic event on Channel 9, when watching at 3pm in the afternoon. Terrified my 3 year old daughter who was excited to watch the rhythmic gymnastics event, not a horror movie advertisement. No option to skip or change channel and forced to sit through ad in order to watch the desired Olympic event.*

Role of reviewer

The Independent Reviewer has a limited but important role. Having decided to accept the complaint for review, the Reviewer considers the decision of the Panel and makes a recommendation. In doing so, the Independent Reviewer's opinion is to decide according to the relevant test for this case:

Whether there was a substantial flaw in the Community Panel's determination (determination clearly in error having regard to the provisions of the Codes or Initiatives, or clearly made against the weight of evidence).

The test depends on a finding of a 'substantial' or serious flaw in the Panel's reasoning. The outcome of the review may be to uphold the Panel's decision or, if the

Independent Reviewer finds such a flaw, the complaint is remitted to the Panel for reconsideration.

One complainant's response

In summary this complainant rejected the findings of the Panel:

- Mischaracterisation of advert contents
- Blatant disregard for psychological impact
- Inappropriate audience consideration
- Overemphasis on justification
- Disregard for parental control
- Contradiction of own [Panel's] guidelines
- Failure to define '*strong suggestion of menace*'.

Advertiser's response

In summary the Universal Pictures International Australasia (Universal) responded:

- Universal adheres to the AANA Advertiser Code of Ethics
- The film is a darkly imaginative comedy which is the context within which the movie was produced
- The advertisement remains appropriate for all consumers.

[In that context Universal stated;]

'Universal ... carefully plan out (sic) targeting with the agency to deliver a digital plan designed to reach Adults 16+ years who are fans of the genre'.

Panel's reasons

The Panel noted that while the advertisement is a comedy it does contain some scenes which are horror themed. The Panel noted the advertisement contained scenes such:

- As the woman stapling her face
- A woman being restrained by two men
- The Beetlejuice character catching fire
- An explosion
- A person throwing a punch
- Someone being thrown backwards after being hit with a bolt of electricity.

The Panel considered that '*while these scenes were humorous and slap-stick in nature, they contain a mild a mild (sic) level of violence*'.

The Panel acknowledged that the film *'contains numerous scenes which could be scary in nature and suspenseful'*.

The Panel concluded that *'the advertisement did not contain graphic depictions of violence or a strong suggestion of menace which would be unacceptable when visible to a broad audience which includes children'* [and was] *'justifiable in the context of promoting a comedy film with horror themes'*.

Consideration by reviewer

The Code of Ethics Section 2.3 states *'Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised'*.

'Violence' is not defined in the Code. Turning to other acceptable sources *'violence'* is defined variously as:

- *'rough or injurious action or treatment'* (Macquarie Concise Dictionary, 1407)
- *'any behaviour that threatens or actually harms or injures the individual or others'* (<https://myhealth.canada.ca>)

The Code of Ethics states in Section 2 that *'Prevailing Community Standards'* apply to all parts of Section 2. The Practice Note for Section 2.3 states that *'there is no one test of Prevailing Community Standards'*; and that the test will *'differ in relation to health and safety, ... [and] violence'*. Accepting this is the case, the elements I take from these definitions are that violence can involve behaviours that threaten as well as actually harm or injure another.

The Code also states that in considering whether the advertisement is *'justifiable'* the

Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example ... advertising for violent or horror movies, tv show ... should take care not to include images that given the impression that a character has just committed violence against someone ... was a victim of violence ... or is about to commit violence against someone ... where there is a broad audience which includes children.

Universal acknowledged that it instructed its advertising agents *'to deliver a digital plan designed to reach Adults 16+ years who are fans of the genre'*. At the time of the Panel consideration there was no rating for the film. Accordingly, the Panel needed to pay particular attention to the content in view of the broad audience.

The Panel did not refer to the Universal's response about its target audience being 16+ who enjoy the comedy/horror genre. In other words, the target audience was 16+ older teens and adults, not younger children.

The Panel found that the film contained '*numerous scenes which could be scary in nature and suspenseful*' without specifying which age groups would find it '*scary*'; or '*suspenseful*', nor to acknowledge whether '*scariness*' and '*suspensefulness*' will vary with the age and life experience of the viewer.

Prevailing community standards take into account that the community has accepted the often gruesome representation of scary figures displayed at Halloween and the representations are quite acceptable. But these figures are stylised, not actual people.

Whether this feature supported the finding of the Panel is not apparent, as the Panel appears to state conclusions without reasoning. The Panel simply concluded the advertisement did not contain graphic depictions of violence or a strong suggestion of menace unacceptable to a broad audience including children and was justifiable on the basis that the level of violence was mild. No further reasoning was available.

In so finding and failing to take account of the age group to whom the movie was intended, the Panel did not consider the likely higher level of '*scariness*' and '*suspensefulness*' for younger children watching at tv family friendly viewing times such as the Olympic events. '*Broad audience*' includes young children and early teens.

The stapling scene illustrates violence against someone, namely, the person depicted, where the violence actually '*injures*'. Nor did it consider other scenes containing violence such as a woman being restrained by two men and the '*about to commit violence*' scene of the person throwing a punch.

The scene when the young woman staples her face is of particular concern. Early teens are of an age to test parental and other limits, including their own pain thresholds, and are also likely to push social boundaries such as stapling parts of the body, particularly the face. That scene could encourage copycat behaviour which many would consider does amount to violence to the body and is undesirable for viewing by susceptible teens and younger in the audience.

Conclusion

In summary, I suggest that the Panel reconsider its findings on Section 2.3 by taking into account whether the film was justifiable given an audience including younger children and early teens and the intended audience of the film which was for older teens and adults.

In my view there was a substantial flaw in the reasoning given the insufficient attention to the young pre-teen viewers and the early teen viewers who were likely to be included in the audience at the time of viewing.

THE DECISION ON REVIEW

The Panel considered whether this advertisement breaches Section 2 of the AANA Code of Ethics.

The Panel noted the Independent Reviewer's recommendation that the Panel reconsider the case, specifically looking at:

- the age group who the movie was intended being older than the audience of the advertisement, and how this audience would view the advertisement
- particular the concern around the depiction of the woman stapling her face and whether this is a depiction of self-harm.

Section 2.3: Advertising shall not present or portray violence unless it is justifiable in the context of the product or service advertised.

Does the advertisement contain violence?

The Panel noted the advertisement was found to contain violence in the original decision, and this decision was supported by the independent review.

Is the violence justifiable in the context of the product or service advertised?

The Panel noted the Practice Note for this section of the Code which states

“In considering whether the violence or menace depicted in an advertisement is justifiable, the Community Panel may have regard to the audience of the advertisement. Graphic depictions of violence or a strong suggestion of menace have been found to present violence in an unacceptable manner especially when visible to a broad audience which includes children. For example, advertising for violent or horror movies, tv shows or video games should take care not to include images that give the impression that a character has just committed violence against someone (for example, a weapon with dripping blood), was the victim of violence (for example, freshly severed limbs) or is about to commit violence against someone (for example, gun aimed directly at a person or the viewer) where there is a broad audience which includes children. More leeway is permitted where the depiction is stylised rather than realistic. However, advertisers should exercise caution when using cartoon violence as a cartoon style may be attractive to children.”

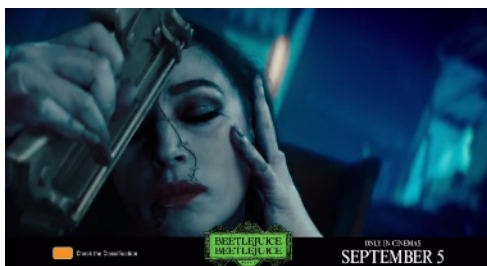
The Panel noted the advertisement was viewed during the Olympics and news programming, and that this would have a broad audience including children of all ages. However, the Panel noted that the programs were not children's programs and instead were programs with broad appeal to both adults and children. The Panel considered that most young children watching these types of programs would be supervised by older family members.

The Panel noted that the film being advertised was rated M which means that it is not recommended for children under the age of 15, however children under the age of 15 may legally access the content. The Panel noted the movie had been found to have a mild impact for violence, but a moderate impact for supernatural themes and language (<https://www.classification.gov.au/titles/beetlejuice-beetlejuice>).

The Panel noted that its role is to consider the suitability of the content of the advertisement for the audience, and not the suitability of the product to be advertised to that audience. The Panel noted that the advertisement included:

- A woman stapling her face
- A woman being restrained by two men
- The Beetlejuice character catching fire
- An explosion
- A person throwing a punch
- Someone being thrown backwards after being hit with a bolt of electricity.

The Panel first noted the scene of the woman stapling her face. The Panel considered that the woman was shown to have a black line down her face, and the most likely interpretation is that she is a zombie character fixing her face. The Panel noted that she is using a staple gun, rather than a household stapler, and consider that a young child audience may not recognise the object or the woman's actions. The Panel considered that the woman's face is not shown to bleed around the staples, and the woman does not react as though she is in pain. The Panel considered that this one second sequence was not a realistic depiction of self-harm. The Panel also considered that the woman's appearance was similar to someone wearing a Frankenstein-style costume, or children's monster toys (such as monster high dolls) and would be unlikely to cause alarm to most children.



The Panel then considered the scene where a woman is seen being restrained by two men. The Panel noted that the scene was dark and lasted for just over a second. The Panel considered that the fleeting nature of the image, plus the darkness of the scene meant that it would not be clear to many viewers that the woman was being restrained. The Panel considered there was no context to the scene, and no strong indication that the woman was being harmed or likely to be harmed.



The Panel noted the scene where the Beetlejuice character catches fire. The Panel considered that the Beetlejuice character is heavily stylised as though wearing a Halloween costume, and is presented as an over-the-top, cartoon-style character. The Panel considered that the short scene of him catching fire was consistent with the unrealistic style of the character. The Panel noted that neither the Beetlejuice character or the woman he is with appear alarmed by the flames, and there is no suggestion that he is in pain. The Panel considered that the impact of this cartoon-style violence was mild.



The Panel noted that the scene with an explosion features a CGI character with a shrunken head. The Panel considered that the short scene appeared cartoonish and unrealistic. The Panel considered that no-one was shown to be hurt by the explosion and no-one appeared under threat of being hurt.



The Panel noted the scene where someone throws a punch. The Panel considered that you don't see who the punch is directed towards. The Panel considered the impact of the punch is not shown. The Panel considered that the use of a boxing glove in an unlikely location again gives the impression of unrealistic, cartoonish, slapstick-style violence.



The Panel noted the scene where someone is seen being thrown backwards after being hit by a bolt of electricity. The Panel considered that it is a fleeting scene where the details are unclear, and the identity of the person who is in the air is unknown. The Panel noted that the scene doesn't show the person being hit, or them hitting the ground, only the brief moment when they are in the air. The Panel considered that this scene is highly stylised and does not appear as a realistic depiction of someone being harmed.



The Panel considered that each of these individual scenes did not amount to a depiction of violence which suggested that real people have been hurt or are under threat of being harmed. The Panel noted that the overall impression of the advertisement is one of supernatural spookiness, rather than strong violence.

The Panel acknowledged that some young children may be frightened by the characters and the supernatural scenes in the advertisement. However, the Panel considered that the level of spookiness was similar to that of Halloween decorations and Halloween episodes of children's cartoons. The Panel considered that the level of menace and threat in the advertisement was mild, and was not inappropriate for a broad audience which would include supervised children.

Section 2.3 Conclusion

The Panel concluded that the advertisement did not breach Section 2.3 of the Code.

Conclusion

Finding that the advertisement did not breach any other section of the Code the Panel confirmed the original decision and dismissed the complaints.